

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
International Settlements Policy Reform)	IB Docket No. 02-324
International Settlement Rates)	IB Docket No. 96-261

**REPLY COMMENTS OF AT&T CORP. ON REMOVAL
OF THE INTERNATIONAL SETTLEMENTS POLICY.**

AT&T Corp. ("AT&T") hereby submits these Reply Comments concerning one of the routes that are proposed for removal of the International Settlements Policy ("ISP") under the procedures established by the First Report and Order in this proceeding.¹ AT&T, like Telefonos de Mexico, S.A. de C.V. ("Telmex"), supports the removal of the ISP on the U.S.-Mexico route. However, there is no basis to Telmex's claims that the Commission is required to take this step in order to "catch up to" Mexico's removal of its International Long Distance Rules ("ILD Rules") that purportedly "are the equivalent of the ISP."² Mexico is removing its ILD Rules only after a WTO panel found them to be nothing more than "anticompetitive price-fixing" and to violate Mexico's WTO obligation since February 1998 to prevent such practices.³ In contrast,

¹ *International Settlements Policy Reform*, IB Docket No. 02-324, First Report and Order, rel. Mar. 30, 2004, FCC 04-53, ("Report and Order"), ¶ 29 & App. E (listing routes subject to comment or petitions). See also, Public Notice, *Commission Announces Pleading Cycle For Comments and Replies in Proceeding on Routes Believed to be Benchmark Compliant*, DA 04-1585, May 28, 2004 (listing routes available for comment).

² Comments of Telefonos de Mexico, S.A. de C.V., filed June 28, 2004 ("Telmex Comments"), at 3.

³ World Trade Organization, *Mexico – Measures Affecting Telecommunications Services*, Report of the Panel, WT/DS204/R, Apr. 2, 2004 ("WTO Panel Report"), at 198.

the U.S. ISP rules are consistent with WTO requirements and are being removed simply as a deregulatory step to further the Commission's goal of cost-based rates by "encourag[ing] market-based arrangements between U.S. and foreign carriers."⁴

Mexico's ILD Rules require Telmex, as the largest Mexican international carrier, to negotiate all international termination rates in Mexico and require all Mexican carriers both to charge those rates and to adhere to proportionate return rules. The WTO panel found "the U.S. argument convincing that the removal of price competition by the Mexican authorities, combined with the setting of the uniform price by the major supplier, has effects tantamount to those of a price-fixing cartel."⁵ The panel found that Mexico violated Section 1 of its WTO Reference Paper commitment to maintain "appropriate measures" to prevent anticompetitive practices by maintaining measures that *require* these anticompetitive practices.⁶

In contrast, U.S. ISP rules are narrowly focused on preventing the abuse of foreign market power and encourage rather than prohibit competitive rate negotiations. All U.S. carriers negotiate rates independently with foreign carriers. Unlike the rigid uniformity of Mexico's ILD Rules, the ISP is merely concerned with nondiscrimination, symmetrical rates for inbound and outbound traffic, and proportionate return.⁷ Moreover, the ISP rules do not apply to U.S. carrier arrangements with nondominant foreign carriers, while Mexico's ILD Rules apply to *all* carriers. Even U.S. carrier arrangements with foreign dominant carriers have been exempt from the ISP rules on the many routes authorized for ISR or where the ISP has been removed.

⁴ Report and Order, ¶ 3.

⁵ WTO Panel Report, at 198.

⁶ *Id.*, at 198-99.

⁷ Report and Order, ¶ 12.

AT&T welcomes Mexico's agreement to modify its international rules to remove the requirements for uniform rates, proportionate return and for the largest carrier to negotiate rates for all carriers, which promises to benefit consumers and carriers at both ends of the U.S.-Mexico route by encouraging competition and lower rates. AT&T does, however, have concerns with Mexico's proposed modifications. First, while Telmex contends (p. 3, n.13) that "Mexico has not reserved the ability to reimpose its ILD Rules," Mexico proposes expressly to reserve the right to require "proportionality" and "reciprocity" conditions to be included in agreements with Mexican carriers. Second, AT&T Mexico proposes to require all agreements with Mexican carriers to be filed and made publicly available, although there is no reason to require the filing or public availability of any agreements with nondominant Mexican carriers. In the U.S., all filing requirements for nondominant U.S. carriers are removed when the ISP is removed.⁸ This is because requiring public availability "may exert a chilling effect" on pro-competitive arrangements.⁹

⁸ *Id.*, ¶ 58; 47 C.F.R. Sect. 43.51 (b). Accordingly, filing requirements should continue to apply to Telmex.

⁹ *1998 Biennial Regulatory Review, Reform of the International Settlements Policy and Associated Filing Requirements*, 14 FCC Rcd. 7963, ¶ 28 (1999); Report and Order, ¶ 58, n.144.

Contrary to Telmex's claims (p. 3), it is therefore Mexico, and not the U.S., that needs to "catch up" by removing this unnecessary and anticompetitive regulation of nondominant Mexican carriers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Sabrina Carter, do hereby certify that on this 13th day of July 2004, a copy of the foregoing “Reply Comments of AT&T Corp. on Removal of the International Settlements Policy” was served by first class mail, postage prepaid, on the parties listed below.

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